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November 13, 1995

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222, Mail Stop 1170
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: Ex Parte Presentation in
IB Docket No. 95-22 and
File No. I-T-C-95-481

Dear Mr. Caton:

On November 9, 1995, Mr. Haruhiko Nomura of the KDD Washington Liaison Office and I met with Mr. Brian Carter of Commissioner Barrett's office, Ms. Jane Mago of Commissioner Chong's office, and Ms. Mary McManus of Commissioner Ness's office regarding the above-referenced proceedings. Yesterday I spoke with Mr. Julius Genachowski of Chairman Hundt's office regarding those proceedings. The attached document was distributed and summarizes the content of the presentation.

Respectfully submitted,

Robert J. Aamoth

Enclosure

cc: Brian Carter
Diane J. Cornell
Julius Genachowski
Scott Blake Harris
Jane E. Mago
Mary P. McManus

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APPLICATION OF KDD AMERICA, INC. FOR SECTION 214 AUTHORITY TO PROVIDE NON-INTERCONNECTED INTERNATIONAL PRIVATE LINE RESALE SERVICES (ITC-95-481)

IN THE MATTER OF MARKET ENTRY AND REGULATION OF FOREIGN-AFFILIATED ENTITIES (IB DOCKET NO. 95-22)

1. In the NPRM in IB Docket No. 95-22, the FCC re-affirmed its traditional policy of open entry by foreign-affiliated carriers into the U.S. international resale market.

A. Japan is now in the process of deciding whether and how to liberalize its market for international simple resale, known as ISR -- i.e., switched services provided on a resale basis over international private lines interconnected to the public switched network at both ends.

B. By reversing its current policy and adopting restrictions upon foreign carrier entry into the U.S. international resale market, the FCC would signal foreign countries that it is acceptable to proceed slowly and cautiously in opening their own international resale markets.

2. It would not impose meaningful pressure upon foreign countries to liberalize their telecom markets to restrict entry into the U.S. international resale market.

A. Entry into the U.S. international resale market is a speculative business proposition. Foreign carriers are willing to enter because it does not require a major capital investment and they can "pull the plug" quickly without substantial losses if the business fails.

B. Foreign countries are not willing to expand the scope or pace of market liberalization in their own markets just to give their carriers an opportunity to put a "toe in the water" in the U.S. through speculative investments.

3. KDD America takes no position on whether the FCC's proposed "effective market access" policy will impose positive pressure upon foreign carriers to support expanding the scope or pace of liberalization in their home markets.

A. However, to the extent the FCC's policy can impose such pressure, the FCC would maximize that pressure by permitting foreign carriers to enter the U.S. international resale market without restrictions and then implementing reasonable entry criteria when a foreign carrier desires to expand its U.S. operations on a facilities basis.

B. If a foreign carrier has entered the U.S. international resale market, it does not have a stake in the U.S. market and it likely will just walk away from such a speculative entry option rather than push for fundamental reforms in its own market to satisfy U.S. regulatory policy.

C. However, once a foreign carrier has successfully entered the U.S. international resale market and gained a stake in that market with ongoing business operations, the carrier will face the need to expand its operations on a facilities basis. (Historically, U.S. resale carriers grow their business over time by becoming, at least in part, facilities-based carriers.) The carrier's need for facilities-based authority from the FCC in order to continue growing its U.S. operations will maximize the pressure upon the foreign carrier to push for reforms in its own country to satisfy U.S. regulatory policy.

4. Several foreign carriers, including KDD America, Inc., have applied for Section 214 authority to enter the U.S. international resale market.

A. This is not surprising. Whenever a major developed country declares that foreign carriers are free to enter its international resale market, numerous carriers are likely to do so. KDD America filed its application to provide non-switched international resale services in reliance upon the FCC's statement of its current policy.

B. Japan has already liberalized its international resale market for non-interconnected international private line services (the market segment which KDD America seeks to enter in the U.S.). The following "foreign" (i.e., non-Japanese) carriers have already entered the Special Type II market in Japan: AT&T, BT, Cable & Wireless, Deutsche Telekom, Fax International, Sprint and Telstra. Singapore Telecom has announced that it plans to enter. Japan does not impose any market access test upon foreign carriers wishing to obtain Special Type II authority in Japan.

C. Japan also permits foreign carriers to have a 100% ownership interest in facilities-based satellite service operators without satisfying a market entry standard.

5. Obtaining Section 214 authority to resell switched international services does not give foreign carriers an advantage in providing seamless end-to-end services to multinational corporations.

A. International switched resellers cannot direct the underlying U.S. carrier to terminate the traffic with the reseller's foreign carrier affiliate. If KDD America were to seek Section 214 authority to resell AT&T's international switched services to Japan (and KDD America has not done so), AT&T would be free to send the traffic to facilities-based carriers other than KDD in Japan.

B. Only those resale carriers with a large volume of international switched traffic have any potential ability to bargain with underlying U.S. carriers regarding rates, terms and conditions.

C. No one argues seriously that permitting foreign carriers to enter the non-switched international resale market (as KDD America proposes) will give foreign carriers an advantage in providing end-to-end seamless services to multinational corporations.

6. It bears emphasis that if the FCC restricts entry by foreign carriers into the U.S. international resale market, the U.S. will have a substantially less open international resale market than Japan.